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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Sacramento)

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THE PEOPLE,  
  
Plaintiff and Respondent,  
  
v.  
  
RONNIE DALE GRANT,  
  
Defendant and Appellant.

C050172  
  
(Super. Ct. No.  
04F03408)

A jury convicted defendant Ronnie Dale Grant of attempted first degree robbery with the personal use of a firearm, first degree robbery with the personal use of a firearm, and criminal threats. Defendant admitted a prior serious felony conviction. The court sentenced defendant to 26 years 8 months in state prison.

On appeal, defendant contends the trial court improperly excluded testimony of an alibi witness. We affirm.

FACTS

In the early morning hours of March 17, 2004, Lisa Washington was watching a movie with her friend Nathan Nez at

Washington's apartment in Sacramento. At approximately 3:00 a.m., defendant, whom Washington had known for approximately four and one-half months, rang the apartment intercom and Washington buzzed him in so he could come up to her apartment. Defendant arrived with an unidentified friend whom Washington had never met. After being let into the apartment, defendant pulled out a gun and began tapping it at his side, stating he was looking for Shaun, Washington's ex-boyfriend. Defendant's friend took Nez's cell phone and forced Nez into the bathroom.

Defendant told Washington he wanted a ring Shaun had given to her and any money she had in the apartment. Washington refused to give defendant anything. Defendant pointed the gun at Washington's face and stated, "All I have to do is shoot you." Washington, while holding the telephone, screamed for defendant to "[g]et the 'F' out of [her] apartment."

Defendant's friend attempted to take the phone from Washington and, after a short struggle, he ripped the phone cord out of the wall. Defendant demanded the ring two more times, and Washington again refused and screamed for defendant to leave, which he eventually did. As he was leaving, defendant continued pointing the gun at Washington's face, "running down the hall like backwards."

## DISCUSSION

### I

#### *Exclusion of Alibi Testimony*

Defendant states in his opening brief that the trial court erroneously excluded relevant alibi testimony. For the reasons stated below, we deem the argument abandoned.

Defendant gave notice to the prosecution that Tonya Britschgi would testify concerning Washington's character. Specifically, the statement given to the prosecution said Britschgi would testify Washington was a "crack whore" who smoked methamphetamine and dealt drugs. The court excluded this character evidence in limine under Evidence Code sections 352 and 1101, subdivision (a). The court, however, allowed defendant an opportunity to revisit the subject later. When asked by the court for a further offer of proof on the relevance of Britschgi's testimony, beyond Washington's character, defendant offered nothing.

At the start of the defense case, after the prosecution's case concluded, defendant called Britschgi out of the presence of the jury under Evidence Code section 402. Britschgi testified as an alibi witness, saying she visited defendant at his apartment in the early morning of March 17, 2004. The prosecutor objected based on late discovery, saying the defense never gave the prosecution notice of Britschgi as an alibi witness. In fact, the prosecutor had to track down the defense investigator and twice request a copy of the statement concerning Britschgi's character testimony. After arguments

from both sides on the admissibility of Britschgi's alibi testimony, the trial court excluded it, "based upon the fact that [defendant] had this information early on, did not reduce it to a report and [did not] provide it to the district attorney."

Defendant's retained appellate counsel also represented him at trial. Counsel argues that the trial court should not have excluded Britschgi's alibi testimony; however, he provides no legal argument and cites no authority for this proposition as required by the California Rules of Court, rule 14(a)(1)(B).<sup>1</sup> We need not consider defendant's bare assertion. "It is the duty of counsel by argument and the citation of authorities to show that the claimed error exists. [¶] . . . 'Contentions supported neither by argument nor by citation of authority are deemed to be without foundation, and to have been abandoned.' [Citation]." (*In re Randall's Estate* (1924) 194 Cal. 725, 728-729; see also *People v. Seals* (1961) 191 Cal.App.2d 734, 737 [stating court under no obligation to search record for sound legal reason to reverse burglary conviction if defendant presented no argument and cited no authority on appeal].)

Not only does counsel fail to present a legal argument supported by citations, he also fails to comply with the rules governing appellate briefs. For example, defendant's opening brief lacks any headings summarizing the points made, as

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<sup>1</sup> All subsequent references to rules are to the California Rules of Court.

required by rule 14(a)(1)(B). The brief contains no summary of significant facts as required by rule 14(a)(2)(C). The cover of defendant's opening brief is missing counsel's California State Bar number as required under rule 14(b)(10)(D). Finally, while rule 14(b)(7) requires consecutively numbered pages, defendant's paltry three-page brief lacks even these.

Because defendant fails to present an appropriate argument that the trial court improperly excluded alibi testimony, the assertion is deemed abandoned.

DISPOSITION

The judgment is affirmed.

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NICHOLSON, J.

We concur:

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SCOTLAND, P.J.

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BUTZ, J.